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PART III.

Legislative Measures and Rules thereunder.

REGULATION No. III OF 1906.

(PASSED ON THE 12TH DAY OF JULY 1906.)

A Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Whereas it is expedient further to amend the Code of Civil Procedure, 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

1. For section 253 of the Code of Civil Procedure, 1882, as introduced by Regulation II of 1884, and amended by Regulations, II of 1887, VII of 1892, VI of 1901 and VI of 1905, the following shall be substituted, namely :—

Substitution of new section for section 253 of the Civil Procedure Code.

"253. Where any person has become liable as surety for the performance of any decree or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees :

Enforcement of liability of surety.

Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

Proviso.

2. The following section shall be inserted after section 310, namely :—

Addition of new section after section 310.

"310 A (1). Where immovable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired—

Application to set aside sale on deposit of judgment debt.

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a d ree declaring its liability to sale in satisfaction of a mortgage or charge, befor such decree,

may, at any time within thirty days from the date o the sale, apply to lave the sale set aside on his depositing in Court–

(i) for payment to the purchaser, a sum equal to fi e per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum e ual to the purchase money, together with the costs of the attachment and sale ;

Provided that, if a person applies under section 311 o set aside the sale of his immovable property, he shall not, unless he withdraws his ap ication, be entitled to make or prosecute an application under this section.

(2) Where immovable property has been sold unde this Chapter by separate lots in execution of a decree, an application with regard to one or ore of such lots may be made under this section.

(3) Any person making an application under this s tion shall be bound to implead the purchaser and the decree-holder as parties thereto ; and where the purchaser and the decree-holder are not so impleaded, the application shall be dis issed.

(4 Where any sale is set aside by an order made nder this section, the property sold shall not be liable to be again attached in execution of t e same decree unless such order is set aside in appeal or otherwise."

Amendment of section 315 of the Code.

3. In section 3 of the said Code, the figures and letter "310 A" shall e inserted after the word "section" and before the figures 312."

Addition of new section after section 582 of the Code.

4. After section 582 of the said Code, the following section shall be added namely :—

Validation of certain memoranda of appeals or applications for review of judgment.

582 A. If a memorandum of appeal or applicati n for a review of judgment has been presented within the oper period of limitation, but is written upon paper insuffi ently stamped and the insufficiency of the stamp was caused y a mistake on the part of the appellant or applicant as to he amount of the requisite stamp, the memorandum of appeal or application shall have the sa e effect and be as valid as if it had been properly stamped : Provided that such appeal or a plication shall be rejected unless the appellant or applicant supplies the requisite stamp with a reasonable time after the discovery of the mistake, to be fixed by the Court."

V. P. MADHAVA RAO,
Dewan of Mysore.

Notification No. J. 225—*Cts.* 202-05-6, *ated 25th July* 1906.

The following alteration proposed by the Chief Co t, in the rules relating to the custody of attached movables, published with Government Noti cation No. 4671—399, dated the 12th October 1899, is sanctioned :—

For Rule 8 of the said rules the following shall be substituted, namely :—

"If the property attached consists of cash, Government or other securities, jewels or other valuable articles of small bulk, the Nazir or Deputy Nazir may put the same together with a descriptive list in a box (other than the ordinary cash chest of the Court) under his lock and seal and send it for safe custody to the nearest Government Treasury. In other cases, attached property brought to the Court shall be retained by the Nazir in the Court-house, if it can be conveniently stored or kept there."

By Order,
K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.